

## Panama Canal Regulations

## § 256.4

employee fails to comply with the terms of payment arrangements agreed to with the creditor agency.

*Disposable pay* shall have the same meaning as prescribed in 5 CFR 550.1103.

*Employee* means a current—

(a) Civilian employee, as defined in 5 U.S.C. 2105;

(b) Member of the Armed Forces or Reserves of the United States;

(c) Employee of the United States Postal Service; or

(d) Employee of the Postal Rate Commission.

*Pay* means basic pay, premium pay, special pay, incentive pay, retired pay, retainer pay, or, in case of an employee not entitled to basic pay, other authorized pay.

*Paying agency* means the Federal agency or branch of the Armed Forces or Reserves employing the individual or disbursing his or her current pay.

*Salary offset* means an administrative offset to collect a debt under 5 U.S.C. 5514 by deduction at one or more officially established pay intervals from the current pay of an employee without his consent.

*Waiver* means the cancellation, remission, forgiveness or nonrecovery of a debt allegedly owed by an employee to an agency as permitted or required by 5 U.S.C. 5584, 5 U.S.C. 8346(b), 10 U.S.C. 2774, or 32 U.S.C. 716, or any other law.

### § 256.3 Pay subject to offset.

(a) An offset from an employee's pay from the Commission may not exceed 15 percent of the employee's disposable pay, unless the employee agree in writing to a larger offset.

(b) If collection in one lump-sum payment would exceed 15 percent of the employee's disposable pay, an offset shall be made biweekly or at officially established pay intervals from the employee's current pay account. Whenever possible, the installment payments shall be sufficient in size to liquidate the debt during a period not greater than the anticipated period of active duty or employment of the debt-or employee.

(c) If an employee retires, resigns, or is discharged, or if his employment period or period of active duty otherwise

ends before collection of the debt is completed, an offset may be made from subsequent payments of any nature (e.g., final salary payment, lump-sum leave, etc.) due the individual from the employing agency, to the extent necessary to liquidate the debt. If the final payment due the employee is insufficient to satisfy the debt, the creditor agency shall take steps necessary to provide for payment of the debt by administrative offset from payments of any kind due the former employee from the United States pursuant to 31 U.S.C. 3716. (See 4 CFR 102.4)

### § 256.4 Advance notice of debt; request for records; submission of information.

(a) Before initiating an offset proceeding, the Chief Financial Officer of the Panama Canal Commission will establish an individual administrative case file for each employee to be covered by the offset proceeding and notify the employee—

(1) That he has determined that the employee is indebted to the United States in a specific amount as the result of a debt due and owing to the Panama Canal Commission;

(2) That he intends to satisfy that indebtedness by offsetting 15 percent of the employee's disposable pay unless the employee can demonstrate that he is not indebted to the United States or that the proposed offset schedule would produce an extreme financial hardship, as defined in § 256.12 of this part;

(3) If the applicable law includes a provision requiring waiver of debts in certain circumstances, notice of the waiver provision, including a description of the conditions under which a waiver must be granted, notice that the employee has an opportunity to request such a waiver, and instructions on how to apply for a waiver; and

(4) The options available to him and time limits within which submission of additional information or documents must be made.

(b)(1) An employee who has been notified of the Chief Financial Officer's determination of the existence and amount of the debt and the proposed offset schedule, may submit to him a request—

(i) Not later than 10 days from the date the employee receives the notice, for a copy of the records in the possession of the agency relating to the debt,

(ii) Within the time specified in paragraph (c) of this section, that he reconsider his determination of the existence or amount of the debt,

(iii) Within the time set forth in paragraph (c) of this section, that he reconsider the proposed offset schedule, on the basis that it would produce an extreme financial hardship for the employee, and

(iv) Within the time set forth in paragraph (c) of this section, that he consider a request for waiver of the debt, if a waiver provision is applicable to the debt.

(2) If the employee requests a reconsideration of the determination of the existence or amount of the debt, the employee shall submit a statement, with supporting documents, indicating why the employee believes he is not so indebted.

(3) If the employee requests a reconsideration of the proposed offset schedule, the employee shall file an alternative proposed offset schedule and a statement, with supporting documents, showing why the schedule proposed by the agency would produce an extreme financial hardship for the employee. The supporting documents must show, for the employee and his spouse and legal dependents, for the one-year period preceding the receipt of the notice and for the repayment period proposed by the employee in his or her offset schedule, the—

- (i) Income from all sources,
- (ii) Assets,
- (iii) Liabilities,
- (iv) Number of legal dependents,
- (v) Expenses for food, housing, clothing, and transportation,
- (vi) Medical expenses, and
- (vii) Exceptional expenses, if any.

(c) An employee who requests a reconsideration of the existence or amount of the debt, or the proposed offset schedule, shall submit his statement, with supporting documents, to the Chief Financial Officer no later than—

(1) Forty-five days from the date the employee receives the notice of the debt, if he does not make a timely re-

quest for records under paragraph (b)(1)(i) of this section; or

(2) Forty-five days from the date the employee receives the records, if a timely request for records was made.

(d) If the employee submits a timely request for reconsideration under paragraph (b) of this section, together with the required documents, the Chief Financial Officer will reconsider whether the employee is indebted to the United States, the amount that the employee owes, or whether the proposed offset schedule is appropriate.

(e) If the employee files a timely request for waiver of the debt, the Chief Financial Officer will consider that request. If the employee files a request for waiver that is not timely, the request will be considered if he establishes that his failure to file within the time prescribed was because of circumstances beyond his control or because he did not receive the notice of the time limit and was not otherwise aware of it.

(f) The Chief Financial Officer's decision on the employee's request for reconsideration will be based on agency records and the material submitted by the employee. He shall promptly notify the employee of his decision concerning the existence and amount of the debt and the appropriateness of the employee's proposed alternative offset schedule.

(g) If the Chief Financial Officer determines that the employee is indebted to the United States, he will include in the notice to the employee the following matters:

(1) A statement of the reasons for the decision regarding the indebtedness, including, if applicable, the reasons for any reduction of the amount of the indebtedness; and

(2) The notice described in § 256.5.

(h) If the Chief Financial Officer determines that his original offset schedule, or a modified schedule (other than the one proposed by the employee) will not impose an extreme financial hardship on the employee, he will include in the notice to the employee—

(1) A statement of the reasons for his conclusion that his original or modified offset schedule will not impose an extreme financial hardship, and

(2) The notice described in § 256.6.